



**Town of Westport**  
**Planning and Zoning Commission**  
Town Hall, 110 Myrtle Avenue  
Westport, CT 06880  
Tel: 203-341-1030 Fax: 203-454-6145

Hearing: January 23, 2020 and April 23, 2020

Decision: April 23, 2020

April 29, 2020

Compo Cove, LLC  
c/o Robin Tauck  
223 Hillspoint Road  
Westport, CT 06880

**RE: 44 Compo Mill Cove, Coastal Site Plan, Appl. #19-065**

Dear Ms. Tauck:

This is to certify that at a meeting of the Westport Planning and Zoning Commission held on April 23, 2020 it was moved by Ms. Dobin and seconded by Mr. Cammeyer to adopt the following resolution.

**RESOLUTION #19-065**

WHEREAS, THE PLANNING AND ZONING COMMISSION met on April 23, 2020 and made the following findings:

Property Description/Background

1. The lot is a conforming 25,440 SF lot located within the ½ acres Res. A district. The lot currently has a single-family dwelling. The house constructed in about 1901, is listed on the Historic Resource Inventory (HRI) and is within the Mill Cove Historic District, which was listed on the National Register of Historic Place in 1991 and does not conform to the Base Flood Elevation.
2. The survey shows that the property ranges between 9.2' NAVD along the eastern property line then gradually slopes down to approximately 7' and then quickly down to 3.3' NAVD (Mean High Water Line) along Long Island Sound.
3. 44 Compo Mill Cove is located within the Coastal Area Management (CAM) boundary and is located within the 100-year flood zone, which is designated as AE EL 13' and VE EL 14' on Panel #09001C0552G. A majority of the property and house are located in the VE EL 14' flood zone. The property is connected to sanitary sewer. There is a permanent maintenance easement on the property, and all those properties on

Compo Mill Cove, which was granted to the Town of Westport in 1983 to redistribute sand that gathers on the western end of the Cove back along the beach.

4. Recent beach erosion has uncovered a buried concrete wall, confirmed to be pre-1995 by the Connecticut DEEP, which is located approximately 40 feet from the Mean High Water Line. The top of the shoreline flood and erosion control structure (seawall) has an EL of 8' NAVD 88.

5. In September 2019, an Coastal Site Plan application (#19-048) was submitted which proposed to extend the height by 3 feet of an existing 24" wide shoreline flood and erosion control structure (seawall) and to add resiliency to the existing beach by placing a coir block along the bottom of the bank and overlaying the slope with beach nourishment sediment as a planted dune which will extend from the shoreline flood and erosion control structure (seawall) to the Coastal Jurisdiction Line (CJL). Comments were received from Connecticut Department of Energy and Environmental Protection (CT DEEP) which indicated the proposal was **not** consistent with Connecticut Coastal Management Act and the applicant withdrew the application.

6. This property lies within the Coastal Area Management (CAM) boundary, as defined by C.G.S. §22a-94 and therefore, a Coastal Site Plan review is required in accordance with C.G.S. §22a-109 and the Town of Westport Zoning Regulations §31-10.6. §31-10.5 of the zoning regulations states that no use, activity or project for which a Coastal Site Plan is required by §22a-105 (b) of the Connecticut Coastal Management Act (CCMA) shall commence until a Coastal Site Plan has been approved by the P&Z Commission or the Zoning Board of Appeals in accordance with the requirements of §22a-105 through 22a-109 of the CAM Act.

7. The following coastal resources have been identified on the site or within the influence of the project: General Resources, Beaches and Dunes and Shellfish Concentration Area.

### Proposal

8. The original plans submitted as part of this application continued to propose extending the height by 3 feet and beach nourishment with a planted dune.

9. Staff sent a referral to DEEP in accordance CGS 22a019 (d) as the proposal included modification to a shoreline flood and erosion control structure.

10. Comments from CT DEEP Office of Long Island Sound Program John Gaucher, dated 2/10/20 suggested a rock filled dune design may be considered consistent with CCMA policies. He states benefits of the rock core dune over the existing proposal includes,

*"1) beneficial rather than adverse impacts to the beach resource;*

*2) minimization or elimination of any adverse impacts to the abutting property;*

*3) enhancement of beach habitat if implemented at a sustainable elevation;*

- 4) *reduction in frequency and significance of repair/maintenance;*
  - 5) *elimination of wave energy potentially deflected into the living area of the dwelling by a vertical seawall;*
  - 6) *elimination of the need to install special geotextile fabrics, coir logs, pinning, or other design features required to secure non-structural features located waterward of the existing seawall closer to the high water mark;*
  - 7) *repair/replacement of sacrificial sand would be less costly and less complicated than fixing geotextile fabric, stakes, coir logs, etc.;*
  - 8) *creating an appearance of a 100% natural beach, fitting in with the existing beach environment; and*
  - 9) *being consistent with all applicable CCMA policies."*
11. Connecticut General Statutes Sec. 22a-92(b)(2)(J) identify the policies concerning coastal land and water resources within the coastal boundary:
- "To maintain the natural relationship between eroding and depositional coastal landforms and to minimize the adverse impacts of erosion and sedimentation on coastal land uses through the promotion of nonstructural mitigation measures. Structural solutions are permissible when necessary and unavoidable for the protection of infrastructural facilities, cemetery or burial grounds, water-dependent uses, or commercial and residential structures and substantial appurtenances that are attached or integral thereto, constructed as of January 1, 1995, and where there is no feasible, less environmentally damaging alternative and where all reasonable mitigation measures and techniques have been provided to minimize adverse environmental impacts."*
12. The applicant submitted revised plans dated 2/14/20 which proposed removal of the existing seawall and replacement of a sand dune with rock core. The dune will be planted with native beach grass. Sand will be imported and delivered to the site via barge or carted onto the site with small equipment.
13. The proposal also includes constructing a concrete patio and walkway.
14. Text Amendment #775 was adopted by the Planning and Zoning Commission on March 5, 2020 and permits slopes greater than 20%, but no more than 35%, for sand dunes created as part of beach nourishment or replenishment projects if recommended by CT DEEP. The amendment became effective March 30, 2020. The proposed sand dune with rock core has a 33% slope and this slope is recommended by John Gaucher, from CT DEEP, in order for the sand dune to function effectively. Therefore, the application may be considered compliant with the grading requirements allowed pursuant §32-8.
15. Comments were received by John Gaucher of CT DEEP on 3/10/20 which recommend a number of modifications to the plans including creating a dune that will

cover all the rock and strongly recommending that the owner consider shifting the rock core dune as far landward as feasible and noting if a design with a smaller footprint can be shown to effectively protect the structures foundation, a landward shift of the center of the structure could be relocated further landward without the landward edge location changing.

16. Mr. Gaucher also recommended elimination of the proposed gallery system as although very effective in upland situations, subsurface infiltration is not suitable in a beach environment. Drainage through beach sand far exceeds the maximum infiltration rate of 5"/hr as recommended in the 2004 Connecticut Stormwater Quality Manual. Since beaches have such high infiltration rates, the best stormwater treatment arises from discharging stormwater to the ground surface. The proposed patio will not create a new point discharge, so beach erosion is highly unlikely to occur as a result of the structure.

17. Further modifications to the plans were recommended by John Gaucher, CT DEEP and revised plans submitted. Plans dated 4/6/20 were reviewed and a determination that the plans as modified, appear to be fully consistent with the relevant Coastal Management Act policies including CGS Sec. 22a-92(b)(2)(J) was submitted by Mr. Gaucher on 4/22/20. He recommended the following conditions of approval:

A. Submission of a Monitoring Plan

Conduct a minimum of a 3-year monitoring program which shall include the submission of an annual monitoring report on or before October 30th of each growing season for the P&Z staff review and comment. The initiation of the 3-year monitoring program shall start the first growing season following the planting of the beach grass vegetation. Such annual report shall contain, at a minimum, the following information: 1.) visual estimates of percent cover of surviving vegetation; 2.) general health and vigor of the surviving plants; 3.) replanting of areas that are determined to have less than a 50% plant survival rate; and 4) site photographs. Additionally, sand shall be added as necessary to ensure that the rock core remains covered with beach sand. The owner shall immediately implement any additional remedial recommendations that may be prescribed by the Staff in writing in response to the evaluation of any annual report.

B. Installation of Dune Wind Fencing

This will minimize the loss of wind-blown sand until robust beach

18. The Commission determined that Dune Wind Fencing was not necessary after testimony was received from the applicant that the fencing does not withstand the recent storms.

19. Comments from the Engineering Department dated 2/27/20 indicating the application is complete and does not require further revision. Additional comments dated 4/15/20 were received indicating satisfaction with the removal of the gallery system and the certification that the deck, patio and fire pit will be constructed to comply with FEMA Technical Bulletin #5.

20. The Staff Reports prepared by Michelle Perillie, dated March 2, 2020, April 16, 2020, April 20, 2020 and April 22, 2020 conclude the application is consistent with the goals and policies of the Connecticut Coastal Management Act.

21. The Westport Planning and Zoning Commission has determined that this project is consistent with the policies identified in Section(s) 22a-92(b) (1) and 22-a-92 (b) (2) of the Connecticut Coastal Management Act; that it will adversely affect adjacent Coastal Resources (General Resources, Beaches and Dunes and Shellfish Concentration Area) identified in Sections 22-93 (a) (7) of said Act.

22. Testimony was received at the March 5, 2020 and April 23, 2020 public hearings.

THEREFORE BE IT RESOLVED that **44 Compo Mill Cove:** Coastal Site Plan Appl. #19-065 submitted by Compo Cove LLC c/o Robin Tauck for property owned by Compo Cove LLC to construct a revetment and planted dune located in the Residence A zone, PID#E04094000 be **APPROVED** with the following modifications and for the following reasons:

#### **Conditions**

1. Conformance to the Existing Conditions Survey, prepared by William W. Seymour and Associates, dated 10/11/16, revised 7/27/17.
2. Conformance to the Shoreline Protection Plans, prepared by RACE, dated 8/16/19, revised 4/6/20.
3. A Zoning Permit shall be obtained prior to commencement of any work. Prior to the issuance of a Zoning Permit, the applicant shall submit the following :
  - a. Submission of a Monitoring Plan: Conduct a minimum of a 3-year monitoring program which shall include the submission of an annual monitoring report on or before October 30th of each growing season for the P&Z staff review and comment. The initiation of the 3-year monitoring program shall start the first growing season following the planting of the beach grass vegetation. Such annual report shall contain, at a minimum, the following information:
    - 1.) visual estimates of percent cover of surviving vegetation;
    - 2.) general health and vigor of the surviving plants;
    - 3.) replanting of areas that are determined to have less than a 50% plant survival rate; and
    - 4) site photographs.Additionally, sand shall be added as necessary to ensure that the rock core remains covered with beach sand. The owner shall immediately implement any additional remedial recommendations that may be prescribed by the Staff in writing in response to the evaluation of any annual report.

4. Prior to the issuance of the Zoning Certificate of Compliance the applicant shall submit a Certified "As-Built" survey.
8. This application is granted upon the condition that all construction and site improvements shall be in strict accordance with the plans and other documents submitted and any statements or representations made by the applicant or agent on the record. Any deviation from such documents or representations shall require further review and approval from the Commission.
9. All new utilities shall be placed underground.
10. All plantings shown on the final approved planting plan shall be maintained in a healthy growing condition and shall be replaced with new materials no later than the beginning of the next immediately following growing season if they do not thrive.
11. All work approved pursuant to this Site Plan shall be completed within 5 years of date of approval, by April 23, 2025.
12. This is a conditional approval. Each and every condition is an integral part of the Commission decision. Should any of the conditions, on appeal from this decision, be found to be void or of no legal effect, then this conditional approval is likewise void. The applicant may refile another application for review.

ENFORCEMENT. Failure to comply with any standard or condition contained in this Resolution, shall be considered a zoning violation pursuant to §45-2 of the Westport Zoning Regulations. The failure to undertake corrective action within 10 days of being notified of such violation may result in the following remedies: 1) issuance of a notice of violation; 2) issuance of a cease and desist order; 3) issuance of a municipal citation with daily fines of up to the maximum allowed by statute; and/or 4) enforcement action through a judicial proceeding.

**Reasons:**

1. The Westport Planning and Zoning Commission has determined that this project is consistent with the policies identified in Section(s) 22a-92(b) (1) and 22-a-92 (b) (2) of the Connecticut Coastal Management Act; that it will not adversely affect adjacent Coastal Resources (General Resources, Beaches and Dunes and Shellfish Concentration Area) identified in Sections 22-93 (a) (7) of said Act.
2. The 2017 Plan of Conservation and Development in Chapter 7 (Protect Natural Resources) includes a goal of promoting non-structural activities in the coastal area as opposed to groins, seawall revetments, etc. (pg 52).
3. The 2017 Plan of Conservation and Development in Chapter 7 (Protect Natural Resources) includes a goal of preserving coastal resources and carefully manage development in coastal areas (pg 45).

4. The Engineering Department comments dated April 15, 2020 stating they had no objection to the proposal.

**VOTE:**

AYES	-7-	{Dobin, Stephens, Walsh, Lebowitz, Cammeyer, Rutstein, Gratrix}
NAYS	-0	
ABSTENTIONS	-0-	

Very truly yours,

A handwritten signature in cursive script, appearing to read "Danielle Dobin", followed by a small flourish.

Danielle Dobin  
Chair, Planning & Zoning Commission

cc: P. Fria, Assessor's Office  
P. Ratkiewicz, Engineering Department